

REMARKS

The claims in this application have been rejected under 35 U.S.C. §103 over Ando et al. in view of "Applicant's admission." This rejection is respectfully traversed.

There are two Ando et al. references of record in this case. Based on the Examiner's description of fig. 1, Applicants have assumed the Examiner was referring to U.S. 5,045,744.

The Office Action admits that Ando et al. does not disclose the same materials or the dimensions. It is respectfully submitted that this admission is fatal to the rejection.

The Office Action attempts to remedy the lack of any disclosure of the same material by taking "Official Notice" that $\text{SrBi}_4\text{Ti}_4\text{O}_{15}$, $\text{CaBi}_4\text{Ti}_4\text{O}_{15}$ and $\text{SrBi}_2\text{Nb}_2\text{O}_9$ are art recognized equivalents for the piezoelectric material PZT found in "Hall" (*sic*: Ando et al.). Official Notice requires some basis and none has been set forth here. In any event, Applicants respectfully traverse the assertion that these materials are art recognized equivalents, for a PZT piezoelectric material. In fact, bismuth-based ceramics are clearly different from conventional piezoelectric materials such as PZT from the point of view of the crystal structure and the piezoelectric properties. There is no relationship between the bismuth-based ceramics and the PZT ceramics as to electrode diameter, electrode area, and distance between the electrodes with respect to optimum harmonic overtone. Accordingly, the attempted justification for deeming an art recognition does not exist and there is the material difference between the claimed invention and Ando et al. remains.

The assertion that Applicant has admitted that it is well-known in the art that the ratio nL/t was a result effective variable is respectfully traversed. While the application

does, of course, indicate that this relationship should be less than 10 or another value, a careful review of the application has not revealed any passage from which it can be concluded that the art was aware of the nL/t ratio, much less that it was a result effective variable.

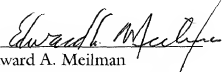
Since there is no admission that the prior art recognized the ratio was a result effective variable, there is no basis for even arguing that one skilled in the art would have even attempted to find the optimum value of that ratio. Since the prior art does not teach or suggest the same material or dimensions, it is respectfully submitted that the rejection should be withdrawn.

It is respectfully submitted that this application is now in condition to be allowed and the early issuance of a Notice of Allowance is respectfully solicited.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned “Version with markings to show changes made.”

Dated: March 4, 2002

Respectfully submitted,

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